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1. The first step is to identify the problem or question that needs to be answered. This involves understanding the context and the specific requirements of the task.

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However, these sections limit the Authority's jurisdiction only when dealing with "existing contracts between any public utility and any municipality". The Authority's jurisdiction and authority is not "limited to" contracts between a public utility and a municipality. BellSouth's suggestion basically eliminates the "power, jurisdiction and control" specifically set out in Tennessee Code Annotated § 65-4-104 and § 65-4-105(a).

Again, it is important to note that the argument that the Coalition requests somehow requires the Authority to retroactively impact contractual rights of the parties involved is not at issue. If some of the toll agreements have terms extending beyond the thirty (30) days referenced by BellSouth, the argument might make theoretical sense. Although as a practical matter it is not an issue here, since BellSouth would be bound by the longer term.

Additionally, numerous earnings investigations of BellSouth by the Tennessee Public Service Commission from 1984 to the Price Cap Rule included the toll settlement amounts in developing their forecasted cost of service. None of those proceedings predicated a change in the toll settlements for the Rural Local Exchange Carriers. In fact, despite the reduction in state-wide average intraLATA toll rates and the implementation of Metro Area Calling, the toll settlements for the Rural Local Exchange Carriers remained basically in tact.

Tennessee Code Annotated § 65-5-201 states that the Authority "has the power ... to fix just ... tolls." Also, Tennessee Code Annotated § 65-5-207(a) provides: "[T]he authority shall formulate policies, promulgate rules and issue orders which require all telecommunication service providers to contribute to the support of universal service." To that end, the Authority has jurisdiction over the toll settlements of BellSouth and the Rural Local Exchange Carriers. After BellSouth initiated the price regulation plan as stated in Tennessee Code Annotated

§65-5-209, the net toll settlement revenues are now explicitly included in the non-basic revenues of BellSouth. BellSouth's non-basic revenues are subject to the Price Regulation Index ("PRI") and the Service Price Index ("SPI") permitting a maximum annual adjustment in the rates for interconnection services. The maximum annual adjustment in the rates is subject to Authority review and approval according to statute.

Issue 2: Should the withdrawal of toll settlement agreements between BellSouth and the Rural Local Exchange Carriers be considered in the Rural Universal Service proceeding? If so, how should they be considered?

Yes.

To the extent that revenues are lost by the Rural Local Exchange Carriers, the recovery of their costs of service may be jeopardized. The Coalition claims a median impact of \$4.74 per month per access line. Such an impact would seriously undermine the maintenance of universal service in rural areas in Tennessee. BellSouth admits it is "providing a subsidy to the independent companies." This statement validates the necessity of consideration that the withdrawal of the toll settlement agreement has generated in this proceeding. It is inconsistent to now claim that a subsidy is "unwarranted." While the amount of the subsidy may be at issue, the fact that a subsidy already exists indicates that some subsidy is warranted under Tennessee Code Annotated § 65-5-207(c). Otherwise, the new universal service alternative may not "be fair to all telecommunications service providers", as provided in Tennessee Code Annotated § 65-5-207(c).

It is too convenient to suggest that a decision on the rural universal service proceeding should wait for consideration with the universal service proceeding. Certainly, the timetable

envisioned in Tennessee Code Annotated § 65-5-207(b) suggests that the Legislature was concerned about universal services. Until BellSouth's recent decision to terminate the system that was working, the Authority clearly had time to consider the universal services issue at a deliberative pace. Until now, the Authority had the luxury of relying on BellSouth's interest in preserving the universal services system in place. However, with price hikes for rural customers a strong possibility, the crisis is at hand. This situation is created, at least in part, by BellSouth's decision to terminate the toll agreements.

Issue 3: Is the state Universal Service statute, as enacted, intended to apply to rate of return regulated rural companies, as such companies are defined under state law?

Yes.

Clearly Tennessee Code Annotated § 65-5-207(a) applies to "telecommunications service providers," which is defined at Tennessee Code Annotated § 65-4-101(c). There is no distinction made in the statute between providers who fit within this group. It would be inappropriate to assume that the Legislature's reference to "telecommunications service providers" in Tennessee Code Annotated § 65-5-207 is a mindless exercise. We should resist the idea that the Legislature did not know what it was doing.

Beyond the preamble in Tennessee Code Annotate § 65-5-207(a) is the clear legislative mandate: "ensure the availability of affordable residential basic local exchange service." The attempt to create different classes of telecommunications service providers by way of focusing on each company's competitive nature draws us away from this mandate. This mandate should not

be obscured. Highlighting the Legislature's comments regarding competition is an attempt to move the mole hill in front of the mountain.

Respectfully submitted,

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Attorney General & Reporter

A handwritten signature in black ink, appearing to read 'T. C. Phillips', written over a horizontal line.

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Certificate of Service

I hereby certify that a true and correct copy of the Petition to Intervene was served on parties below via U.S. Mail, postage prepaid, this November 16, 2000.

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